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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,370	10/06/2006	Jens Maase	ZTP03P01362	8388

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EXAMINER
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HARTMAN JR, RONALD D

ART UNIT	PAPER NUMBER
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2121

MAIL DATE	DELIVERY MODE
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04/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,370	<b>Applicant(s)</b> MAASE, JENS	
	<b>Examiner</b> Ronald D. Hartman Jr.	<b>Art Unit</b> 2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Examiner Notes***

1. Certain terms were defined by the applicant, and are represented in the claims, these terms, and their corresponding pertinent sections of the specification, are as follows:

[002] The term "appliance" specified in the following description means any more or less complex, electrical or mechanical appliance which must be operated in some fashion by a human user.

[005] The term "control element" as used herein is to be understood as any input devices such as a push button or switch but also those devices which are in any functional relationship to the appliance and which must be actuated as required by the user.

[012] The term "marker elements" should be understood as all devices which clearly mark the respective control element of the appliance for the user. For example, LED's or lamps but also sound sources can be used for identification.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 14-25 are rejected under 35 U.S.C. 102(a) as being anticipated by the game Grand Theft Auto III, by Rockstar Games.

Claim 14 recites a method of instructing a user during operation of an appliance, the appliance having (1) a control element, (2) a marker element, and (3) either an audio or visual output device, the method comprising the steps of:

- outputting information to instruct the user to operate the appliance using the output device, the information describing a control element to be actuated by the user;
- identifying the control element with the marker element during the outputting of the information.

It is first noted that the applicant, in [002], has attempted to define appliance by using the term appliance. Therefore, the examiner will rely on the dictionary's definition of appliance, which states that an appliance "is an instrument, apparatus, or device for a particular purpose or use." A very broad term to be sure.

As best understood, claim 14 is anticipated by the playing of the video game entitled Grand Theft Auto III, which was originally released by Rockstar Games on May 20, 2002 in North America.

[http://en.wikipedia.org/wiki/Grand\\_Theft\\_Auto\\_III](http://en.wikipedia.org/wiki/Grand_Theft_Auto_III)

When this game is first loaded, the animated player is shown on the screen in a 3d world. The animated third person player is moved about the 3d world using the controls that typically accompany the PlayStation 2.

[http://en.wikipedia.org/wiki/Image:Sony\\_Dual\\_Shock\\_2.jpg](http://en.wikipedia.org/wiki/Image:Sony_Dual_Shock_2.jpg)

<http://en.wikipedia.org/wiki/Image:Gta3-pc-walking.jpeg>

When a new game is started, since the user is typically unfamiliar with the controls of the game, the game will prompt the user on how to perform certain actions; such as which buttons to press in order to open a car door, how to steer the car, how to honk the horn, how to accelerate and stop the car, and how to change the radio station for the car. These actions are graphically depicted in a corner of the screen and appear as written instructions that utilize graphical symbols that are identical to the symbols found on the buttons of the game console controller itself.

It would appear that playing this game (or any other game for that matter), whereby actions and how to perform the actions are explained graphically and interactively, on the screen, so as to teach someone how to play the game, as a player actually plays the game, anticipates the method claimed by pending claim 14.

As per claims 15-18, the playing of Grand Theft Auto III anticipates all of these additional features. That is, with respect to dependent claim 15, the game prompts the player in steps, during operation of the appliance (the game system); also, with respect to dependent claim 16, the game identifies the control element by displaying a symbol corresponding to a button on the game controller and instructs the user in temporal synchronization (as best understood, this feature means that instructions are given as they are needed); also, with respect to dependent claim 17, the game prompt the player in steps based on actuation of an identified control element (button); also, the game prompts the player with instructions in dependence on the operating state of the appliance, that is, when the appliance is operating, it can provide instructions; but when the appliance is not operating, it does not provide instructions.

As per claim 19, the applicant claims an appliance comprising at least one control element being in any relationship to the appliance, at least one output device for providing an audible and/or visual output of information for instructing a user during operation of the appliance, the information describing which control element is to be actuated by the user, and at least one marker element for optically identifying the control element described during an output of the information (e.g. as previously mentioned, all of these features are anticipated by the playing of the game entitled, Grand Theft Auto III, for the Sony PlayStation game console; and the applicants attention is directed to the rejection of claim 14 for further discussion).

As per claim 20, the Sony PlayStation 2 utilizes a memory.

As per claim 21, Grand Theft Auto III prompts the player with balloons, in each balloon is information related to a particular step or instruction pertinent to the actions currently being performed by the player, and this feature is believed to adequately anticipate the feature contemplated by pending claim 21.

As per claim 22, when a player presses a button that is explained in the tutor function; for instance, when a player presses the **X** of the game controller, when instructed by the prompting on a screen of a TV, displaying the game, the memory then loads the next step that the player would need to know in order to carry out the current mission or to perform the next necessary action, and this anticipates the features of claim 22.

As per claims 23-24, the rejection of claim 17 is applied herein.

As per claim 25, the Sony PlayStation is viewed to be a domestic appliance since it is typically used in a home.

4. Claims 14 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lay et al., U.S. Patent No. 6,185,379; and/or as being anticipated by Martin et al., U.S. Patent No. 6,353,899.

As per claims 14 and 19, Lay et al. teaches these features (See Figure 5, especially element 56, and its corresponding textual description).

In addition, or in the alternative, Martin et al. teaches these features (See Figures 12 and 15, and their corresponding textual descriptions).

5. Claims 14 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Nomura et al., U.S. Patent No. 7,173,724.

As per claims 14 and 19, Nomura et al. teaches these features (See Figures 11 and 13, and their corresponding textual descriptions).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald D Hartman Jr./

Primary Examiner, Art Unit 2121

March 24, 2008

RDH